



# DISCIPLINE CASE *DIGEST*

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Case 07-01

<b>Member:</b>	Dean Courtney George Richert
<b>Jurisdiction:</b>	Winnipeg, Manitoba
<b>Called to the Bar:</b>	June 22, 1995
<b>Particulars of Charges:</b>	Professional Misconduct <ul style="list-style-type: none"><li>▪ Breach of Chapter 1 of the <i>Code of Professional Conduct</i> (failing to conduct himself with integrity by signing the name of a Justice of the Court of Queen's Bench on a form of Court Order and thereby falsifying a document, and misleading his client as to the enforceability of the Order)</li></ul>
<b>Date of Hearing:</b>	December 21, 2006
<b>Panel:</b>	<ul style="list-style-type: none"><li>▪ Donald R. Knight, Q.C. (Chair)</li><li>▪ Norman A. Cuddy</li><li>▪ Celia E. Gorlick, Q.C.</li></ul>
<b>Disposition:</b>	<ul style="list-style-type: none"><li>▪ Reprimand</li><li>▪ Costs of \$1,500.00</li></ul>
<b>Counsel:</b>	<ul style="list-style-type: none"><li>▪ C. Kristin Dangerfield for The Law Society of Manitoba</li><li>▪ Gavin M. Wood for the Member</li></ul>

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## Breach of Integrity

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### Facts

Mr. Richert was retained by a client in the fall of 2002 to bring an application to vary an existing order relating to custody, access and child support in respect of the client's son. A Notice of Application to Vary was filed by Mr. Richert in the Court of Queen's Bench and a hearing date scheduled in September, 2002. The hearing of the application was ultimately adjourned for the filing of a Consent Variation Order. As a result of some difficulty in obtaining the signature of his client's former partner, the Order was not filed with the Court of Queen's Bench until October, 2003.

Mr. Richert was contacted by his client who expressed frustration about the delay in obtaining the Order and ultimately, he attended at his client's home to discuss those concerns. At the time of the meeting, a signed Order from the Court of Queen's Bench had not yet issued. However, at the meeting, Mr. Richert provided to his client a form of the Consent Variation Order. The Order bore neither the date nor the name of the Justice issuing the Order on the face page, but on the

signing page, Mr. Richert had dated the Order and inserted a judge's name over the words "Judge or Deputy Registrar". The form of Order had been approved as to form and content by both Mr. Richert and by his client's former partner "Acting on Her Own Behalf". Mr. Richert informed his client that the Order was enforceable and that he was entitled to 50/50 custody of his child. They then became engaged in a heated discussion about the length of time it had taken to obtain the Order, as a result of which, Mr. Richert's services were terminated.

The original Order that had been filed in the Court of Queen's Bench prior to the meeting was ultimately rejected by the Court of Queen's Bench as there was no Affidavit of Execution as to the signature of his client's former partner. A letter on Mr. Richert's file to his client advised that the Order had been rejected and, given the termination of his services, he would not file the Order unless he had instructions to do so. Mr. Richert's client denied having received any such letter. In due course, Mr. Richert's client began to experience difficulties in obtaining access to his son, as a result of which he attended upon new counsel. It was then determined that the Order in the client's possession was not a valid Order. A Variation Order relating to custody was entered in the Court of Queen's Bench by his client's new counsel.

By way of a Statement of Agreed Facts, Mr. Richert admitted that he had placed the date and the signature purporting to be that of the Judge on the Order at some time prior to providing it to his client "in order to show him what the Order would look like." He acknowledged that at no time did he suggest to his client that the Order was anything other than a valid Order.

### **Plea**

Mr. Richert entered a plea of guilty to the charge.

### **Decision and Comments**

The panel found Mr. Richert guilty of professional misconduct for misleading his client as to the enforceability of the order, but was not satisfied that he had intended to falsify a document.

### **Penalty**

The Society requested that Mr. Richert be suspended for his conduct. The panel considered as mitigating factors its finding that Mr. Richert had not intended to falsify a document, the fact that he had practiced for ten years without any other incident, he had immediately expressed remorse and accepted full responsibility for his conduct and he had the full support of the members of his firm who were prepared to provide additional practice direction and oversight of Mr. Richert's practice. In the circumstances, the panel ordered that Mr. Richert be reprimanded and that he pay \$1,500.00 to the Society as a contribution toward the costs of the investigation, prosecution and hearing of the matter.